

SECTION 18 - CERTAIN GOVERNMENTAL ENTITIES - THE STATE, COUNTIES, CITIES AND OTHER POLITICAL SUBDIVISIONS**18-1 PURCHASES AND SALES BY AND DONATIONS TO GOVERNMENTAL ENTITIES****A. Purchases By Governmental Entities****1. General**

With the exception of electricity and telecommunication and ancillary service, sales to State agencies are exempt from State and local sales or use taxes pursuant to G.S. 105-164.13(52), and from the privilege tax pursuant to Article 5F of Chapter 105 of the General Statutes. The items must be purchased by the State agency for its own use pursuant to a valid purchase order issued by the agency that contains its exemption number and a description of the property purchased, or the items must be paid for with a State-issued check, electronic deposit, credit card, procurement card, or credit account of the agency. For all purchases other than by an agency-issued purchase order, the agency must provide to or have on file with the retailer the agency's exemption number. The exemption does not apply to sales of tangible personal property to contractors for use in the performance of contracts with State agencies or to sales of tangible personal property to employees of State agencies.

Sales to counties, cities, and other political subdivisions continue to be subject to the applicable State and local tax.

2. Department of Transportation

Sales to the Department of Transportation are exempt from State and local sales and use taxes pursuant to G.S. 105-164.13(40). This exemption does not apply to sales of tangible personal property to contractors for use in the performance of contracts with the Department of Transportation or to sales of tangible personal property to employees of the Department of Transportation.

3. Payment of Tax

When the counties, cities, towns, and political subdivisions or any agencies thereof make taxable purchases of tangible personal property from a North Carolina supplier or registered out-of-state supplier who charges the North Carolina State and any applicable local sales or use tax thereon, such governmental unit or agency must remit the tax on such purchases to the supplier. Any such governmental unit or agency making taxable purchases of tangible personal property from an out-of-state supplier who does not collect the North Carolina State and any applicable local sales or use tax thereon is required to register with the Department and remit periodically the tax due on such purchases. Any governmental unit or agency so required to register which does not owe any tax for a given period shall file a return reflecting 0.00 on the "Total Due" line.

B. Taxable Sales by Governmental Entities

A governmental unit that sells tangible personal property at retail is considered to be a retailer. If any governmental unit or agency referred to in Paragraph A. 3. of this Bulletin makes taxable retail sales of tangible personal property, it must register with the Department and collect and remit the tax due on such sales unless a law exempts the governmental entity from the requirement. The refund provisions contained in G.S. 105-164.14(c) do not apply to the tax on such sales and no part thereof shall be refunded or claimed as a refund. Governmental units and agencies properly registered for sales and use tax purposes may purchase the tangible personal property which they resell without paying tax thereon to their suppliers provided they have furnished such suppliers with a properly executed **Streamlined Sales and Use Tax Agreement**

Certificate of Exemption, Form E-595E. Certificates of Exemption may not be used by any governmental unit or agency herein referred to, or by any other vendee, in making purchases of tangible personal property to be used or consumed by such purchaser.

C. Donations of Tangible Personal Property to Governmental Entities

Tangible personal property that is purchased by a retailer for resale or is manufactured or purchased by a wholesale merchant for resale and then withdrawn from inventory and donated by the retailer or wholesale merchant to a governmental entity or a nonprofit organization, contributions to which are deductible as charitable contributions for federal income tax purposes, is exempt from use tax.

Note: For information on State agencies operating manufacturing plants, see Sales and Use Tax Technical Bulletin 59-20.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13;
105-164.14; 105-264;
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March 1, 1997.

18-2 REFUNDS TO CERTAIN GOVERNMENTAL ENTITIES

A. Refunds Allowed Under G.S. 105-164.14(c)

1. Governmental entities, as defined by G.S. 105-164.14(c), are entitled to an annual refund of sales and/or use taxes paid by them on their direct purchases of tangible personal property. Governmental entities, as defined, and the Federal Government are entitled to annual refunds of North Carolina and local sales and/or use taxes paid by their contractors on purchases of building materials, supplies, fixtures and equipment that become a part of or are annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered or repaired for use by the governmental entity. **Nonprofit and Governmental Entity Claim for Refund State and County Sales and Use Taxes, Form E-585**, shall be used when filing for the refund authorized for governmental entities pursuant to G.S. 105-164.14(c).

Refund claims filed under G.S. 105-164.14(c) are due to be filed with the North Carolina Department of Revenue covering the governmental entity's fiscal year within six months after the end of that fiscal year. Refunds applied for more than three years after the due date are barred.

2. Refunds to Boards of Education (Local School Administrative Units)

a. Prior to July 1, 2005

A local school administrative unit and a joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related materials, supplies, and equipment on their behalf were eligible for annual refunds of State and local sales and use taxes under G.S. 105-164.14(c).

b. Effective July 1, 2005

A local school administrative unit and a joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to

jointly purchase food service-related materials, supplies and equipment on their behalf are eligible for annual refunds of local sales and use taxes paid on direct purchases of tangible personal property and services, other than electricity, telecommunications service and ancillary service. The refunds are authorized under G.S. 105-467(b) and the provisions apply only to the local sales and use tax; the State sales and use tax is not refundable.

B. Refunds Allowed Under G.S. 105-164.14(e)

G.S. 105-164.14(e) authorizes refunds to State agencies of county sales and use taxes paid by State agencies' contractors on building materials, supplies, fixtures and equipment that become a part of or annexed to a building or structure that is owned or leased by the State agency and is being erected, altered or repaired for use by the State agency. **State Agency Claim For Refund County Sales and Use Taxes, Form E-585E**, shall be used when filing for the refund authorized for State agencies in accordance with the provisions of G.S. 105-164.14(e). Claims for refund filed pursuant to the provisions of G.S. 105-164.14(e) must be filed within 15 days after the end of the calendar quarter.

C. Nonprofit Hospitals Refundable Under G.S. 105-164.14(b)

Nonprofit hospitals owned and controlled by a unit of local government may file claims for refund of sales and use taxes on a semiannual basis under the provisions of G.S. 105-164.14(b) rather than file annually as a part of the local government. In order to file semiannually, the hospital must submit a written request to the Secretary of Revenue and the request will be effective beginning with the six-month refund period following the date of the request and applies to sales and use taxes paid on or after the first day of the refund period for which the request is effective. **Nonprofit and Governmental Entity Claim for Refund State and County Sales and Use Taxes, Form E-585**, shall be used for filing the refund authorized for nonprofit hospitals pursuant to G.S. 105-164.14(b).

Note: For filing requirements under G.S. 105-164.14(b), refer to Sales and Use Tax Technical Bulletin 17-2.

D. Nonrefundable Taxes

The refund provisions of this Bulletin are not applicable to the following taxes:

1. the tax paid on taxable sales made by governmental entities;
2. sales taxes incurred by employees on purchases of food, lodgings or other taxable travel expenses paid by employees from their own funds and reimbursed by the governmental entities named in G.S. 105-164.14(c). These expenses are personal to the employee because the contract for food, shelter, and travel is between the employee and the provider and payment of the tax is by the employee individually and personally. The governmental entities have not incurred any sales tax liability and have not paid any sales tax; instead, they have chosen to reimburse a personal expense to the employee.
3. State sales tax levied by G.S. 105-164.4(a)(4a) and (4c) on sales of electricity and telecommunication and ancillary services; **effective July 1, 2006**, sales or use taxes paid on purchases of alcoholic beverages;
4. occupancy taxes levied and administered by certain counties and cities in this State;
5. prepared food and beverage taxes levied by various local governments in this State;

6. highway use taxes paid on the purchase, lease or rental of motor vehicles;
7. scrap tire disposal tax paid on new tires;
8. white goods disposal tax paid on new white goods;
9. dry-cleaning solvent tax levied on dry-cleaning solvent purchased by a dry-cleaning facility;
10. the excise tax paid on piped natural gas; and
11. other states' sales and use tax.

E. Organizations Not Refundable

1. Community colleges organized under Chapter 115 D are not entitled to refunds under the provisions of G.S. 105-164.14(c). In addition, community colleges do not qualify for refunds of county sales and use taxes under the provisions of G.S. 105-164.14(e). The Department of Community Colleges is a State Agency and the provisions of Sales and Use Tax Technical Bulletins 18-1 A.1. and 18-2 B. apply.
2. Alcoholic beverage control boards, drainage districts, and housing authorities are not entitled to a refund of sales and use tax under the provisions of G.S. 105-164.14.

F. Records Required to Substantiate Refunds

1. All refund claims must be substantiated by proper documentary proof and only those taxes actually paid by the claimant during the period covered by the refund claim may be included in the claim. Any local sales or use taxes included in the claim must be separately stated in the claim for refund. In cases where more than one county's sales and use tax has been paid, a breakdown must be attached to the claim for refund showing the amount of each county's local tax separately.
2. As to taxes paid by governmental entities on purchases for use, other than those made by contractors performing work for the claimant, invoices or copies of invoices showing the property purchased, the cost thereof, the date of purchase, the amount of State and local sales or use tax paid thereon and a record reflecting the date of payment will constitute proper documentary proof.
3. To substantiate a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures, and equipment by its contractor, the claimant must secure from such contractor certified statements setting forth specific required information. A **"certified statement"** is a statement that is signed by the contractor/owner, a corporate officer, or an employee of the contractor who is authorized to provide the information. The certified statement must include all of the following information:
 - a. the date the property was purchased;
 - b. the type of property purchased;
 - c. the cost of property purchased and the amount of sales and use taxes paid thereon;
 - d. the project for which the property was used;
 - e. if the property was purchased in this State, the county to which it was delivered; and

- f. if the property was not purchased in this State, the county in which the property was used.

In the event the contractor makes several purchases from the same vendor, such certified statement must indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices, and the State and local sales and use taxes paid thereon. Such statement must also include the cost of any tangible personal property withdrawn from the contractor's warehouse stock and the amount of State and local sales or use tax paid thereon by the contractor. Similar certified statements by his subcontractors must be obtained by the general contractor and furnished to the claimant. Any local sales or use taxes included in the contractor's statements must be shown separately from the State sales or use taxes. The contractor's statements must not contain sales or use taxes paid on purchases of tangible personal property purchased by such contractors for use in performing the contract which does not annex to, affix to or in some manner become a part of the building or structure that is owned or leased by a governmental agency and is being erected, altered or repaired for use by a governmental entity as defined by G.S. 105-164.14(c). Examples of property on which sales or use tax has been paid by the contractor and which shall not be included in the contractor's statement are scaffolding, forms for concrete, fuel for the operation of machinery and equipment, tools, equipment, equipment repair parts and equipment rentals.

History Note: Authority G.S. 105-164.14; 105-164.22; 105-164.23; 105-264;
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October 1, 1999; January 15, 1999; October 15, 1998;
January 6, 1997.

18-3 HOUSING AUTHORITIES

Sales of taxable tangible personal property to housing authorities created and existing under Chapter 157 of the North Carolina General Statutes for use in carrying on their activities are subject to the general rate of State tax and any applicable local sales or use tax, and such housing authorities are not entitled to refunds of this tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-264;
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18-4 NORTH CAROLINA CIVIL AIR PATROL

- A. The **Civil Air Patrol** is a private corporation of a benevolent character, incorporated by the United States Congress on July 1, 1946 (36 USC 201-208). It is divided into units which are not separate legal entities, but are integral units of the corporation. The basic membership unit for each state is a single "**wing**" whose subordinate units are "**squadrons**" and "**flights**." All funds and property acquired by any unit of the Civil Air Patrol become the property of the corporation. The North Carolina Wing of the Civil Air Patrol and its chartered "**squadrons**" and "**flights**" are eligible for refunds of sales and use taxes under G.S. 105-164.14(b).
- B. G.S. 143B-490 established a **Civil Air Patrol Division** as a State agency within the North Carolina Department of Crime Control and Public Safety. The mission of the Civil Air Patrol Division, among other things, is to receive and supervise the expenditure of State funds provided by the General Assembly or otherwise secured by the State of North Carolina for the use and

benefit of the North Carolina Wing - Civil Air Patrol. The provisions of Sales and Use Tax Technical Bulletins 18-1 A.1. and 18-2 B. apply.

History Note: Authority G.S. 105-164.14; 105-264;
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